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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|--------------------------------------|------------------------|
| 10/553,478 | 10/17/2005 | Satoshi Watanabe | OHK-0011 | 8905 |
| 23353 7590 11/24/2009 RADER FISHMAN & GRAUER PLLC LION BUILDING 1233 20TH STREET N.W., SUITE 501 WASHINGTON, DC 20036 | | | EXAMINER COMLEY, ALEXANDER BRYANT | |
| | | | ART UNIT 3746 | PAPER NUMBER |
| | | | MAIL DATE 11/24/2009 | DELIVERY MODE PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/553,478

Applicant(s)

WATANABE ET AL.

Examiner

ALEXANDER B. COMLEY

Art Unit

3746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/226)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 18th, 2009 has been entered.

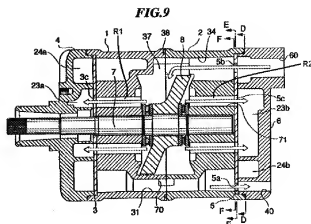
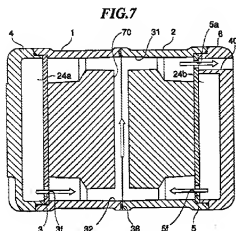
Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1-8** are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 5,800,147 to Arai et al. directed to a Swash Plate Compressor.



In regards to Independent **Claim 1**, and with particular reference to Figures 7 & 9 shown immediately above, Arai et al. discloses:

(1) A swash plate compressor, comprising: a housing having formed therein cylinders (1, 2); a drive shaft (7) rotatably supported at said housing; a swash plate (8) that is housed inside a swash plate chamber (37) formed at said housing and rotates as one with said drive shaft (7); and pistons (12) that slide reciprocally inside the cylinder bore (1, 2) as said swash plate (8) rotates, wherein a front-side intake chamber (23a) and a rear-side intake chamber (23b) communicating with said swash plate chamber and disposed to the front and to the rear of said swash plate chamber (37) along the axial direction, in which a working fluid to be guided into said cylinders (1, 2) is stored, a front-side outlet chamber (24a) and a rear-side outlet chamber (24b) disposed to the front and to the rear of said swash plate chamber (37) along the axial direction, in which the working fluid having been compressed by said pistons (12) is stored, a first gas passage (34) and a second gas passage (33) extending along the axial direction,

a third gas passage (31) formed substantially symmetrical to said first gas passage relative to a plane containing said drive shaft (7), a fourth gas passage (32) formed substantially symmetrical to said second gas passage (31) relative to the plane containing said drive shaft (7) and communicating with said second gas passage (33) and an external component (an evaporator, not shown) that includes an intake port and an outlet port to be connected to piping, are all disposed at said housing; wherein said first gas passage and said third gas passage communicate with said swash plate chamber; either said first gas passage (34) or said third gas passage (31) is made to communicate with said intake port (60) to supply the working fluid into said front-side intake chamber (23a) and said rear-side intake chamber (23b); and wherein either said second gas passage (33) or said fourth gas passage (32) is made to communicate with said front-side outlet chamber (24a) and said rear-side outlet chamber (24b) and said second gas passage (33) or said fourth gas passage (32), which is not in communication with said outlet chambers, is made to communicate with said outlet port (40).

As shown in the figures above, Arai et al. discloses a swash plate compressor for the compressing of a refrigerant gas in a refrigerant circuit. The compressor contains front- and rear-side inlet chambers, as well as front- and rear-side discharge chambers, for storing refrigerant gas in its un-compressed and compressed states, respectively. To begin, Arai et al. first describes the basic compressor structure by

stating "The swash plate compressor includes cylinder blocks 1 and 2 arranged on a front side and a rear side, respectively, and front and rear heads 4 and 6 secured to a front-side end of the front-side cylinder block and a rear-side end of the rear-side cylinder block, respectively...The cylinder block 1 is formed with a through hole 50 through which a drive shaft 7 extends, five cylinder bores 11 which are arranged at predetermined circumferentially-spaced intervals around the through hole 50 and extend longitudinally in a fashion parallel with the through hole 50, three refrigerant outlet passages 31 to 33 which extend in a fashion parallel with the cylinder bores 11, and a refrigerant inlet passage 34 through which low-pressure refrigerant flows."

(Column 4, Lines 15-32) Most importantly, however, is the structure of the four refrigerant passages (i.e. gas passages) that communicate with the intake, discharge, and swash plate chambers. In particular, Arai states "The refrigerant outlet passages 32, 33, communicate with discharge chambers 24a and 24b via ports 3f and 5f formed through a valve plate 3 and a valve plate 5, respectively, and the other refrigerant outlet passage 31 communicates with a discharge port 40 via a port 5a. Further, a guide passage 70 which communicates an intermediate portion of the refrigerant outlet passage 31 with an intermediate portion of the refrigerant outlet passage 32 extends in a junction of the cylinder blocks 1 and 2." (Column 4, Lines 34-43) In Arai's compressor, passage 34 acts as the refrigerant gas inlet passage, while passages 31-33 act as the refrigerant gas outlet passages (i.e. a total of 4 gas passages). Hence, it can be seen that first gas passage (i.e. either the first of third gas passage, as claimed) is made to communicate with the intake port 40, while either the second or fourth gas

passage is made to communicate with the outlet port 60. More specifically, Arai discloses that the discharge passage that is NOT in communication with the discharge port is in communication with the outlet chambers. In particular, Arai states "According to the invention, since the cylinder block has the guide passage therein for communicating the intermediate portion of any of the at least two refrigerant outlet passages other than the one of the at least two refrigerant outlet passages being communicated with the discharge port, with the one of the at least two refrigerant outlet passages being communicated with the discharge port, refrigerant is permitted to flow from the former, which is not communicated with the discharge port, to the latter, which is communicated with the discharge port, whereby refrigerant is prevented from becoming standing within the any of the refrigerant outlet passages other than the refrigerant outlet passage communicated with the discharge port." (Column 2, Line 66 – Column 3, Line 11) Therefore, it can be seen that Arai contains Applicant's four claimed gas passages, and are structured in the same way.

4. In regards to dependent **Claim 2**, it can be seen in Figure 9 that relay passages (R1 and R2) are formed with the first and third gas passages (34, 31) in order to communicate the swash plate chamber with the front- and rear intake chambers (23a, 23b). Regarding dependent **Claims 3 and 4**, and with reference to Figures 7 & 9 above, as well as Figure 11 of Arai, it can be seen that valve plates are disposed between front- and rear-side cylinder heads (4, 6) in order to control the inflow and outflow of refrigerant gas. To begin Arai states "The refrigerant outlet passages 32, 33,

communicate with discharge chambers 24a and 24b via ports 3f and 5f formed through a valve plate 3 and a valve plate 5, respectively, and the other refrigerant outlet passage 31 communicates with a discharge port 40 via a port 5a." (Column 4, Lines 34-39) Moreover, Arai discloses "The valve plate 5 is formed therethrough with the port 5a and a port 5b which communicate the refrigerant inlet passage 34 and the refrigerant outlet passage 31 in the cylinder block 2 with the suction port 60 and the discharge port 40 in the rear head 6, respectively, and ports 5c which communicate passages 71 in the cylinder block 2, which communicate with the swash plate chamber 37, with the suction chamber 23b." (Column 5, Lines 8-15) Finally, Arai states that the valve plates utilize inlet and outlet valves by stating "During the suction stroke, suction valves 25, 26 open to permit refrigerant to flow from the suction chambers 23a, 23b into the compression chambers 21, 22 via ports 3d, 5d, respectively. During the compression stroke, the refrigerant compressed by the piston 12 within the respective compression chambers 21, 22 opens discharge valves 27, 28 to flow into the discharge chambers 24a, 24b via ports 3e, 5e as a high-pressure refrigerant, respectively. (Column 5, Lines 45-53) In regards to dependent **Claims 5 and 6**, Figure 9 best shows that the cylinder blocks (1, 2) and cylinder heads (4, 6) constitute components that form the four gas passages (31-34). Regarding dependent **Claim 7**, the housing forming the cylinder blocks (1, 2) is used commonly on a front- and rear-side of the compressor. And finally, in regards to dependent **Claim 8**, the gas passages (31-34) can be selected for different gas flow paths depending on the positions assumed by the intake and discharge ports of the compressor.

Response to Arguments

5. Applicant's arguments filed August 18th, 2009 have been fully considered but they are not persuasive. The Examiner's responses can be seen below.

6. In regards to Applicant's argument that the gas passage structure of Arai is not structured to have the inlet passage selectable from two gas passages, the Examiner must respectfully assert that Applicant has not claimed such a function. Applicant merely claims that either of the first or third gas passage acts as an intake passage. The Examiner must assert that this does not specify "selectability" as Applicant is arguing in the remarks. The term "either" simply means that one of the two passages is structured to act as an inlet passage. Hence, because passage 34 (i.e. first gas passage) acts as the intake passage, Arai's structure meets the claim.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALEXANDER B. COMLEY whose telephone number is (571)270-3772. The examiner can normally be reached on M-F 7:30am - 5:00am EST (Alternate Fridays Off). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon C. Kramer can be reached on (571)-272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alexander B Comley/
Examiner, Art Unit 3746

/Charles G Freay/
Primary Examiner, Art Unit 3746

ABC